

### **REMARKS**

Claims 1-20 are now pending. Claims 13, 14 and 20 have been amended.

#### ***Claim Objections***

The Patent Office objected to claims 13 and 20 for informalities.

Claims 13 and 20 have been amended.

#### ***Claim Rejections - 35 U.S.C. § 103(a)***

The Patent Office rejected claims 1, 3-6, and 8-13 under 35 U.S.C. § 103(a) as being unpatentable over Basile, U.S. Patent No. 4,097,843 (Basile) in view of Teague, U.S. Patent No. 5,793,284 (Teague).

The Patent Office rejected claims 2 and 14-20 under 35 U.S.C. § 103(a) as being unpatentable over Basile, U.S. Patent No. 4,097,843 (Basile) in view of Teague, U.S. Patent No. 5,793,284 (Teague) in further view of Amato, U.S. Patent No. 6,255,936 (Amato).

Applicant respectfully traverses both rejections of claims 1-20 under 35 U.S.C. § 103(a). To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Ryoka*, 180 U.S.P.Q. 580 (C.C.P.A. 1974). *See also In re Wilson*, 165 U.S.P.Q. 494 (C.C.P.A. 1970). Applicant respectfully submits claims 1 and 14 recite elements which have not been disclosed, taught or suggested by Basile, Teague, or Amato, individually or in combination. For example, claims 1 and 14 generally recite an apparatus for monitoring and alerting a power disruption which includes at least one female outlet on a second panel conductively connected to a male outlet, the female outlet incorporating an auxiliary contact point on a neutral side of said at least one female outlet. This is advantageous as either two or three prong plugs may be inserted in a female outlet and monitored for disconnections. (Instant Application, Page 6, Paragraph 15).

Basile fails to disclose, teach or suggest an apparatus for monitoring and alerting a power disruption which includes at least one female outlet on a second panel conductively connected to a male outlet, the female outlet incorporating an auxiliary contact point on a neutral side of said at least one female outlet. Rather, Basile discloses a monitoring device with a female outlet which includes an auxiliary contact on a grounding prong 56 to receive a grounded plug 58. (Basile, Column 2, Lines 25-68). Plugs include a phase conductor and neutral conductor and may optionally include a ground conductor. However, many plugs do not include grounded plugs, consequently, the monitoring device of Basile is not operable with a two prong outlet. Thus, Basile fails to disclose, teach or suggest an apparatus for monitoring and alerting a power disruption which includes at least one female outlet on a second panel conductively connected to a male outlet, the female outlet incorporating an auxiliary contact point on a neutral side of said at least one female outlet. Teague and Amato fail to cure the defects of Basile. Under *in re Ryoka*, a *prima facie* case of obviousness has not been established for claims 1 and 14. Claims 1 and 14 should be allowed. Claims 2-7 and 15-20 should be allowed due to their dependence upon an allowable base claim.

Additionally, claims 1-20 should be allowed as there exists no motivation to combine Basile with Teague and Amato. The combination of Basile, Teague and Amato does not suggest the incorporation of an apparatus for monitoring a power disruption and wireless transmission of an alarm. Additionally, Basile, Teague and Amato fail to suggest the combination of an apparatus for monitoring a power disruption and a remote monitoring device.

Obviousness cannot be established by combining the teaching of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. Under section 103, teachings of references can be combined only if there is some suggestion or incentive to do so. *ACS Hosp. Sys., Inc. v. Montefiore Hosp.*, 732 F.2d 1572, 221 USPQ 929 (Fed. Cir. 1984). Thus, the Examiner may not use the patent application as a basis for the motivation to combine or modify the prior art to arrive at the claimed invention.

“Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or the knowledge generally available to one of ordinary skill in the art.” *M.P.E.P.* §2143.01. Emphasis added.

The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification. .... It is impermissible to use the claimed invention as an instruction manual or ‘template’ to piece together the teachings of the prior art so that the claimed invention is rendered obvious. This court has previously stated that “[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention.” *In re Oetiker*, 977 F.2d 1443, 24 USPQ 2d 1443 (Fed. Cir. 1992) *quoting In re Fine*, 837 F.2d 1071, 1075, 5 USPQ 2d 1596, 1600 (Fed. Cir. 1988).

The Dean statement is of the type that gives only general guidance and is not at all specific as to the particular form of the claimed invention and how to achieve it. Such a suggestion may make an approach “obvious to try” but it does not make the invention obvious. .... We recognize that given the teaching in appellant’s specification regarding incorporation of the gene into the chromosome and utilizing the bacteria in the plant environment, one can theoretically explain the technological rationale for the claimed invention using selected teaching from the references. This approach, however, has been criticized by our reviewing court as hindsight reconstruction. *Ex parte Obukowicz* at 1065.

The combination of a device for monitoring a power disruption with a wireless transmission of an alarm to a remote monitoring device has not been disclosed, taught or suggested by the combination of Basile, Teague and Amato. Consequently, claims 1-20 should be allowed.

**CONCLUSION**

In light of the forgoing amendments and arguments, reconsideration of the claims is hereby requested, and a Notice of Allowance is earnestly solicited.

Dated: November 28, 2006

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Chad W. Swantz", written over a horizontal line.

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